

## REMARKS

The Office Action dated April 24, 2002, indicates that claims 1-41 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Darling WO 93/23125 in view of LaDue US Patent Number 5, 999, 808 and Angell WO 98/47589.

Claims 1-41 are pending in the application. Claims 1, 15, and 28 have been amended, claim 2 has been cancelled, and claims 42-46 have been added. Claim 1 has been amended to include elements wherein each mobile phone is configured to provide telephone communications through a mobile telecommunications system and at least one of a plurality of mobile phones used for gaming is connected to the communication network through a short range low power radio link. Claims 15 and 28 have been amended to include the element of a second transceiver for connecting a mobile telephone through a short range, low power radio link.

To establish a *prima facie* case of obviousness, the Examiner has the burden of proving that three basic criteria are met. First, there must be some suggestion or motivation to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations. Both the teaching and suggestion to make the claimed combination and the reasonable expectation of success must be found in the prior art, and not based on Applicant's disclosure. All three of these criteria must be met in order to support a finding of *prima facie* obviousness of a claimed invention (see, *e.g.*, MPEP § 2142).

Applicant's invention involves a method, device, and system for playing games between multiple players. Applicant's invention involves connecting a plurality of mobile phones to a communication network for playing an interactive game, wherein at least one of the mobile phones is connected to the communication network using a short range, low power radio link. Each of the mobile phones is configured to provide telephone communications through a mobile telecommunications system. An identification dedicated for playing purposes is provided for each of the plurality of mobile phones and is used to connect the mobile phones together for playing a game. A game scenario is set up and game signals are transmitted across the communication network between the mobile phones using the identifications. The game signals are transmitted

over the short range low power radio link to the mobile phone connected to the communication network through the short range low power radio link.

Darling fails to teach or suggest all of the features recited in claims 1, 15, and 28 of the present invention. Darling teaches a computer game system comprising at least one portable computer game machine including wireless communications means to allow exchange of information with at least one other computer game machine to allow interactive game play between the two machines. (abstract, page 2, lines 25-29) The gaming system according to Darling is a direct point-to-multipoint system. Game information is transmitted directly from the transmitting game unit to all other game units within range according to a time-sharing procedure.

In contrast to the present invention, Darling does not teach connecting a plurality of mobile phones to a communication network for playing a game. Darling is silent as to the use of mobile phones or mobile phone technology for interactive game playing. Also, the Darling system is limited to a point-to-multipoint system, wherein game signals are broadcast directly from a transmitting game unit to all other game units within range without regard to the identity of the game unit.

The present invention, in contrast, uses identifications dedicated for playing purposes for connecting the mobile phones. Further, the present invention includes the element of connecting at least one of the mobile phones to the communications network using a short range low power radio link. The Darling system does not consider connecting mobile phones to a communications network whatsoever, e.g., a LAN, WAN, Internet etc., through any type of connection.

It is contemplated in the Darling patent that a repeater may be provided to augment game play. However, the repeater station is used as a repeater for broadcasting game machine signals only. The repeater rebroadcasts the same game signals to other game units located in areas outside the game system's normal broadcast range to allow larger communication ranges between the game machines. The use of a repeater merely extends the broadcast range of the game unit and does not alter the basic structure of the Darling system, wherein a game unit broadcasts to all other game units within range. Further, it is specified in Darling that only one frequency is used to communicate between game machines. Thus, the game units in Darling are do not connect to a

mobile communications network as in the present invention. The game units in Darling are incapable of operating as a mobile phone.

Furthermore, the Darling patent teaches that when playing a multiplayer game, the communication units of the participating game machines transmit and receive information according to a time-sharing procedure. Each machine transmits information during a particular time slot and receives information during the remaining timeslots. The number of players who can participate in the game at any time, i.e., the maximum number of timeslots, is limited by the amount of information that must be transmitted and the rate at which such information can be processed. Thus, the Darling patent describes a direct point-to-multipoint gaming system wherein a game unit must transmit game information to all other game units in an available timeslot.

In contrast to the present invention, there is no feature in Darling for providing an identification dedicated for playing purposes for each game unit. Further, there is no consideration in the Darling patent of using the identification dedicated for playing purposes for transmitting signals between the mobile telephones through a communications network. The game machines in Darling simply "listen" for the transmissions of other game systems within range (page 13, lines 19-20). According to Darling, if a game machine comes within range, and there is an available timeslot, the game machine may join the game by transmitting in the available timeslot. Therefore, providing an identification dedicated for playing purposes is not taught by Darling. Game signals in Darling are transmitted between game machines using available timeslots rather than using identifications dedicated for playing purposes as in the present invention.

Thus, Darling does not disclose, teach or suggest the elements of using mobile phones that may be used for telephone communications through a mobile telecommunications system for playing an interactive game. Further, Darling does not disclose, teach or suggest providing an identification for each of the mobile phones for playing purposes, connecting the mobile phones together using the identifications for playing purposes, or transmitting game signals between the plurality of mobile phones across a communications network using the identifications dedicated for playing purposes. Furthermore, Darling does not disclose, teach or suggest a gaming device with a first and a second transceiver as claimed in claims 15 and 28.

LaDue does not remedy the deficiencies of Darling. The LaDue patent discusses a system for gaming that transmits application specific gambling messages over a cellular radio

control channel. The gambling messages are transmitted only between the gaming unit and the central monitoring station (abstract; Figure 1A, Figure 1B). The gaming units described in LaDue communicate only with a central station and multiple gaming units are not in any way coupled together. LaDue does not incorporate any teachings regarding multiplayer, interactive gaming. Further, LaDue does not teach multiple transceivers in gaming devices.

In contrast to the present invention, the LaDue patent does not consider providing an identification for the game units dedicated for playing purposes. According to the LaDue patent, game units are not coupled together at all, and thus are not coupled together using the identifications. LaDue further does not include the feature of transmitting game signals between mobile phones across a communications network using the identifications dedicated for game purposes.

In further contrast to the present invention, LaDue does not include the element of connecting one of a plurality of mobile phones to a communications network via a short range low power radio link. Further, LaDue does not consider transmitting gaming signals to a mobile phone over the short range low power radio link. LaDue only considers transmitting game signals between a gaming terminal and a central monitoring station over a cellular telecommunications control channel.

Angell does not remedy the deficiencies of Darling or LaDue. Like Darling, Angell does not teach connecting mobile phones together for playing a game. The game units described in Angell, which are not mobile phones, connect to a central processor, but are not coupled together.

Further, the Angell patent does not contemplate connecting a plurality of mobile phones together through a communication network for playing games. According to the Angell system, the link between a gaming device and the receiver is a direct point-to-point link. The only mention in Angell of mobile telephone technology is in connection with coupling the central processor with a receiver. Angell never considers coupling the game units themselves. Because Angell does not consider connecting the game units through a communications network at all, the element of connecting a mobile phone to the communications network through a short range low power radio is likewise not considered.

Darling, LaDue and Angell, alone or in combination, do not teach, disclose, or suggest all the claim limitations of the present invention. Therefore, any combination of these references does not satisfy the third criteria required to establish a *prima facie* case of obviousness.

Further, no suggestion or motivation to modify the references or to combine the teachings of the references can be identified. Without a suggestion of the desirability of “the combination,” a combination of such references is made in hindsight, and the “range of sources available, however, does not diminish the requirement for actual evidence.” *In re Dembiczak*, 50 USPQ 2d 1614 (Fed. Cir. 1999). It is a requirement that actual evidence of a suggestion, teaching or motivation to combine prior art references be shown, and that this evidence be “clear and particular.” *Id.* Broad conclusory statements regarding the teaching of multiple references, standing alone, are not evidence. *Id.*

The Office Action fails to cite any supportable evidence of a motivation to combine the teachings of Darling, LaDue, and Angell. The Office Action’s assertion that motivation to combine can be found in Darling at pages 20-21 is not persuasive. Here, Darling states that game units of different manufacturers may be used for interactive gaming so long as a standard communication protocol is used. The need for a standard protocol may be required by the gaming system described by Darling. However, this statement would not lead one skilled in the art to combine the cited prior art references to produce the present invention because Applicant’s invention does not necessarily require a common communication protocol.

One skilled in the art could not logically combine the teachings of Darling with the teachings of LaDue or Angell to produce Applicant’s invention. No evidence or suggestion of a motivation to combine is found in any of the prior art references. One problem identified by the present invention is linking multiple game players together through a network using mobile phones. Darling teaches an interactive gaming system with multiple game units linked together, but is silent as to the use of mobile phone technology. A person skilled in the art would not look to LaDue to overcome the deficiencies of Darling because LaDue does not teach anything about interlinked, multi-user gaming. LaDue only teaches using mobile phones for playing games where the players are not linked together. One skilled in the art would not consult LaDue when solving the above-identified problem because LaDue provides no teaching with regard to interlinked, multi-user gaming and provides no teaching regarding interlinking mobile phones.

It is also not logical to look to Angell to overcome the deficiencies of Darling. Angell does not provide any teaching regarding interlinked, multi-user gaming or using mobile phones for interlinked gaming. Thus, there is no motivation for one skilled in the art to look to Angell for solving the identified problem.

Because no motivation or suggestion to combine the references can be identified, and because the asserted combination does not provide a sufficient basis to support a reasonable expectation for success, Applicant asserts that the Examiner has failed to establish a *prima facie* case of obviousness.

Applicant submits that the independent claims 1, 15 and 28 are patentable over any combination of the cited prior art. Because claims 3-14, 16-27 and 29-41 depend directly or indirectly on independent claims 1, 15 or 28, include the features recited in the independent claim on which they depend, as well as additional features, Applicant respectfully submits that claims 3-14, 16-27 and 29-41 are also patentable over any combination of Darling, LaDue and Angell.

Applicant adds new claims 42-46 to clarify the invention. These new claims involve a method for playing games including providing multiple communication systems for coupling mobile phones for playing a game. These claims are supported by the specification. Applicant submits that interactive gaming using mobile phones, wherein each mobile phone is coupled through one of a plurality of communication systems, is patentable over any combination of prior art referenced in this case. Specifically, the Darling patent at page 20-21 states that game units may only be connected if the game units each use "a common communications protocol." Thus, the present invention, as claimed in new claims 42-46, is patentable over Darling because it includes the element of providing a plurality of communication systems, rather than a single standard protocol as required by Darling.

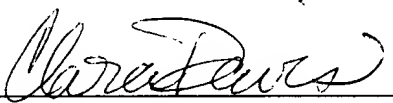
Please charge Deposit Account 50-0996 (NOKV.005PA) in the amounts of \$84.00 for 1 additional independent claim and \$54.00 for 3 additional dependent claims (calculated following the cancellation of dependent claim 2). Authority is given to charge/credit Deposit Account 50-0996 (NOKV.005PA) additional fees if necessitated by this filing.

In view of the remarks above, Applicant believes that all claims are in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is encouraged to contact the undersigned at (651) 686-6633.

Respectfully submitted,

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## APPENDIX A

### MARKED-UP AMENDMENTS TO THE CLAIMS

Please amend claims 1, 15, and 28 as follows:

1. (Amended Three Times) A method for playing games between players at remote locations [;] , comprising:

connecting a plurality of mobile phones to a communication network for playing a game, wherein each mobile phone is configured to provide telephone communication through a mobile telecommunications system and at least one of the plurality of mobile phones is connected to the communication network via a short range low power radio link;

providing an identification for each of the plurality of mobile phones, said identification being dedicated for playing purposes;

connecting the plurality of mobile phones together using said identifications dedicated for playing purposes;

setting up a game scenario for each of the plurality of mobile phones; and

transmitting game signals between the plurality of mobile phones across the communications network using the identifications for playing purposes, wherein the game signals are transmitted to the at least one of the plurality of mobile phones over the short range low power radio link.

15. (Amended Three Times) A mobile phone, comprising:

a [key pad] keypad for dialing, for controlling menu operation and for entering phone control functions;

a display for showing keypad entries and a game scenario; and

a controller for processing user input and for controlling the display, the controller providing identification for playing purposes and using a first transceiver configured to make mobile telecommunications connections and using a second transceiver to connect the mobile phone to at least one other mobile phone through a communication network using said identifications for playing purposes for playing an interactive game and transmitting game



signals to the communication network for reception by the at least one other mobile phone using a short range low power radio connection.

28. (Amended Three Times) An interactive game system, comprising:

a communication network; and

a plurality of mobile phones coupled together through the communication network, at least one [each] of the mobile phones comprising a controller for processing user input and for controlling a display, the controller providing identification for playing purposes and [connecting the mobile phones through a network using a transceiver using said identifications for playing purposes and for playing an interactive game and transmitting game signals to the network] using a first transceiver configured to make mobile telecommunications connections and using a second transceiver to connect the mobile phone to at least one other mobile phone through a communications network using said identifications for playing purposes for playing an interactive game and transmitting game signals to the communication network for reception by the at least one other mobile phone using a short range low power radio connection.